

THIRTY-SIXTH DAY - MARCH 4, 2004**LEGISLATIVE JOURNAL****NINETY-EIGHTH LEGISLATURE
SECOND SESSION****THIRTY-SIXTH DAY**

Legislative Chamber, Lincoln, Nebraska
Thursday, March 4, 2004

PRAYER

The prayer was offered by Pastor Bill Chase, Christian Church of Wakefield.

ROLL CALL

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senators Beutler, Bromm, Brown, Burling, Combs, Cunningham, Hartnett, Johnson, Kremer, Landis, Maxwell, Preister, Price, Quandahl, and Vrtiska who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the thirty-fifth day was approved.

MOTIONS - Approve Appointments

Senator Schrock moved the adoption of the Natural Resources Committee report for the confirmation of the following appointments found on page 819:

Environmental Quality Council
Tom Miller
Donald Williams

Voting in the affirmative, 26:

Aguilar	Erdman	Mines	Schimek	Tyson
Brashear	Foley	Mossey	Schrock	Wehrbein
Byars	Friend	Pedersen, Dw.	Smith	
Connealy	Hudkins	Pederson, D.	Stuhr	
Cudaback	Jones	Raikes	Stuthman	
Engel	Louden	Redfield	Synowiecki	

Voting in the negative, 0.

Present and not voting, 7:

Baker	Chambers	Kruse	Thompson
Bourne	Jensen	McDonald	

Excused and not voting, 16:

Beutler	Combs	Johnson	Preister
Bromm	Cunningham	Kremer	Price
Brown	Hartnett	Landis	Quandahl
Burling	Janssen	Maxwell	Vrtiska

The appointments were confirmed with 26 ayes, 0 nays, 7 present and not voting, and 16 excused and not voting.

Senator Raikes moved the adoption of the Education Committee report for the confirmation of the following appointment found on page 849:

Nebraska Educational Telecommunications Commission
Stan Carpenter

Voting in the affirmative, 27:

Aguilar	Erdman	Louden	Raikes	Synowiecki
Brashear	Foley	McDonald	Redfield	Tyson
Byars	Friend	Mines	Schimek	Wehrbein
Connealy	Hudkins	Mossey	Smith	
Cudaback	Jensen	Pedersen, Dw.	Stuhr	
Engel	Jones	Pederson, D.	Stuthman	

Voting in the negative, 0.

Present and not voting, 6:

Baker	Chambers	Schrock
Bourne	Kruse	Thompson

Excused and not voting, 16:

Beutler	Combs	Johnson	Preister
Bromm	Cunningham	Kremer	Price
Brown	Hartnett	Landis	Quandahl
Burling	Janssen	Maxwell	Vrtiska

The appointment was confirmed with 27 ayes, 0 nays, 6 present and not voting, and 16 excused and not voting.

Senator Raikes moved the adoption of the Education Committee report for

the confirmation of the following appointments found on page 849:

Coordinating Commission for Postsecondary Education

Colleen Adam

James O'Rourke

Louis Pofahl

Eric Seacrest

Voting in the affirmative, 26:

Aguilar	Friend	McDonald	Redfield	Synowiecki
Brashear	Hudkins	Mines	Schimek	Tyson
Byars	Jones	Mossey	Schrock	
Cudaback	Landis	Pedersen, Dw.	Smith	
Engel	Louden	Price	Stuhr	
Erdman	Maxwell	Raikes	Stuthman	

Voting in the negative, 0.

Present and not voting, 11:

Baker	Chambers	Jensen	Thompson
Beutler	Connealy	Kruse	Wehrbein
Bourne	Foley	Pederson, D.	

Excused and not voting, 12:

Bromm	Combs	Janssen	Preister
Brown	Cunningham	Johnson	Quandahl
Burling	Hartnett	Kremer	Vrtiska

The appointments were confirmed with 26 ayes, 0 nays, 11 present and not voting, and 12 excused and not voting.

MOTION - Suspend Rules

Senator Wehrbein renewed the Bromm-Wehrbein pending motion, found on page 865, to suspend that portion of Rule 8, Sec. 5 that requires:

The Appropriations Committee to place appropriation bills on General File no later than the 40th legislative day in a 60 day session.

Senator Wehrbein moved for a call of the house. The motion prevailed with 20 ayes, 0 nays, and 29 not voting.

The Bromm-Wehrbein motion to suspend the rules prevailed with 32 ayes, 0 nays, 8 present and not voting, and 9 excused and not voting.

The Chair declared the call raised.

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 599A. Introduced by Tyson, 19.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 599, Ninety-eighth Legislature, Second Session, 2004; and to declare an emergency.

AMENDMENT - Print in Journal

Senator Landis filed the following amendment to LB 1017:
AM2896

(Amendments to Standing Committee amendments, AM2687)

- 1 1. On page 12, line 22, strike "income" and insert
- 2 "receipts"; and in line 24 after the new matter insert "Gross
- 3 receipts of a contractor does not include the cost of the raw land
- 4 or finished lot, impact fees, title insurance, property insurance,
- 5 lender fees, closing costs, inspection fees, or any taxes or fees
- 6 levied on the transfer of property.".
- 7 2. On page 42, line 9, after "(1)" insert "A contractor
- 8 shall purchase all building materials for resale."; and in line 20
- 9 strike "other" and show as stricken.
- 10 3. On page 43, strike beginning with "The" in line 11
- 11 through "The" in line 12 and insert "For any construction project
- 12 that is exempt from sales tax under this section, the".
- 13 4. On page 45, line 5, strike "labor purchased", show as
- 14 stricken, and insert "project".

GENERAL FILE

LEGISLATIVE BILL 962. The first Standing Committee amendment, FA1502, found on page 817 and considered on pages 818 and 851, was renewed.

Senator Chambers offered the following amendment to the first Standing Committee amendment:

FA1523

Amend FA1502

On page 4, in line 10 strike "some" and insert "a" and strike "purposes" and insert "purpose"; in line 13 strike "there is no reason known to" and after "department" insert "knows of no reason"; in lines 13 and 14 strike "would constitute" and insert "constitutes"; in line 18 strike "determinations" and insert "determination"; in line 23 strike "or" and insert "and any"; in line 22 strike "also".

Senator Chambers withdrew his amendment.

Senator Chambers offered the following amendment to the first Standing Committee amendment:

FA1524

Amend FA1502

On page 4, in line 10 strike "some" and insert "a" and strike "purposes" and insert "purpose"; in line 13 strike "there is no reason known to" and after "department" insert "knows of no reason"; in lines 13 and 14 strike "would constitute" and insert "constitutes"; in line 23 strike "or" and insert "and any owner"; in line 22 strike "also".

The Chambers amendment was adopted with 27 ayes, 0 nays, 16 present and not voting, and 6 excused and not voting.

Senator Chambers offered the following amendment to the first Standing Committee amendment:

FA1525

Amend FA1502

On page 5, in line 4 strike "may be accompanied by" and insert "include"; in line 17 strike "as" and insert "that".

The Chambers amendment was adopted with 26 ayes, 0 nays, 16 present and not voting, and 7 excused and not voting.

Senator Chambers offered the following amendment to the first Standing Committee amendment:

FA1526

Amend FA1502

On page 5, in line 27; page 6, in line 5; page 14, in line 27 strike "cancelled" and insert "canceled".

The Chambers amendment was adopted with 26 ayes, 0 nays, 15 present and not voting, and 8 excused and not voting.

Pending.

STANDING COMMITTEE REPORTS

Urban Affairs

LEGISLATIVE BILL 432. Indefinitely postponed.

(Signed) D. Paul Hartnett, Chairperson

Nebraska Retirement Systems

LEGISLATIVE BILL 960. Placed on General File as amended.

Standing Committee amendment to LB 960:

AM2817

- 1 1. Strike original section 1 and insert the following
- 2 new section:

3 "Section 1. Section 84-1501, Reissue Revised Statutes of
4 Nebraska, is amended to read:
5 84-1501. (1) The Public Employees Retirement Board is
6 hereby established. ~~Such~~
7 (2) Prior to January 1, 2005, the board shall consist of
8 seven appointed members and the state investment officer as a
9 nonvoting, ex officio member. Three of the appointed members shall
10 be participants in the retirement systems administered by the
11 board, one of the appointed members shall be a participant in such
12 retirement systems who has retired, and three of the appointed
13 members shall not be employees of the State of Nebraska or any of
14 its political subdivisions. Appointments to such board shall be
15 made by the Governor subject to the approval of the Legislature.
16 All appointed members shall be citizens of the State of Nebraska.
17 The three appointed members who are not employees of the State of
18 Nebraska or any of its political subdivisions shall have at least
19 ten years of experience in the management of a public or private
20 organization or have at least five years of experience in the field
21 of actuarial analysis or the administration of an employee benefit
22 plan. The members serving on March 27, 1997, shall serve for the
23 remainder of their five-year terms which will be extended until the
24 date on which the successor's appointment is effective. For
25 one members whose terms begin on January 1, 2000, one shall serve a
26 three-year term and one shall serve a four-year term or until a
27 successor has been appointed and qualified. For members whose
28 terms begin on January 1, 2001, one shall serve a four-year term
29 and two shall serve five-year terms, or until a successor has been
30 appointed and qualified.
31 (3)(a) Beginning January 1, 2005, the board shall consist
32 of eight appointed members as described in this subsection and the
33 state investment officer as a nonvoting, ex officio member. Six of
34 the appointed members shall be participants in the retirement
35 systems administered by the board, and two of the appointed members
36 (i) shall not be an employee of the State of Nebraska or any of its
37 political subdivisions and (ii) shall have at least ten years of
38 experience in the management of a public or private organization or
39 have at least five years of experience in the field of actuarial
40 analysis or the administration of an employee benefit plan. On and
41 after January 1, 2005, any person who is appointed to the board and
42 who is not an employee of the State of Nebraska or any of its
43 subdivisions shall not own any funds which are administered by the
44 board.
45 (b) On January 1, 2005, the six appointed members who are
46 participants in the systems shall be as follows:
47 (i) Two of the appointed members shall be participants in
48 the School Retirement System of the State of Nebraska and shall
49 include one active administrator and one active teacher as provided
50 in this subdivision. On January 1, 2005, the member of the board
51 who had been a member of the School Retirement System of the State

1 of Nebraska prior to such date shall continue in such position as
2 the member representing the School Retirement System of the State
3 of Nebraska until such member's term expires. A school
4 administrator shall be appointed as a member of the board when the
5 term of the first member of the board expires who was appointed
6 prior to January 1, 2005, and who was not an employee of the State
7 of Nebraska or any of its political subdivisions;

8 (ii) One of the appointed members shall be a participant
9 in the Nebraska Judges Retirement System, either as an active or
10 retired member. On January 1, 2005, the member of the board who
11 had been a member of the Nebraska Judges Retirement System prior to
12 such date shall continue in such position as the member
13 representing the Nebraska Judges Retirement System until such
14 member's term expires;

15 (iii) One of the appointed members shall be a participant
16 in the Nebraska State Patrol Retirement System, either as an active
17 or retired member. Such member's term shall begin on January 1,
18 2005;

19 (iv) One of the appointed members shall be an active
20 participant in the Retirement System for Nebraska Counties. On
21 January 1, 2005, the member of the board who had been a member of
22 the Retirement System for Nebraska Counties prior to such date
23 shall continue in such position as the member representing the
24 Retirement System for Nebraska Counties until such member's term
25 expires; and

26 (v) One of the appointed members shall be an active
27 participant in the State Employees Retirement System of the State
1 of Nebraska. On January 1, 2005, the member of the board who had
2 been a member of the State Employees Retirement System prior to
3 such date shall continue in such position as the member
4 representing the State Employees Retirement System until such
5 member's term expires.

6 (c) Appointments to the board on and after January 1,
7 2005, shall be made by the Governor and shall be subject to the
8 approval of the Legislature. All appointed members shall be
9 citizens of the State of Nebraska.

10 (4) All members appointed on and after January 1, 2002,
11 shall serve for terms of five years or until a successor has been
12 appointed and qualified. The members of the board shall be
13 reimbursed for their actual and necessary expenses as provided in
14 sections 81-1174 to 81-1177. The appointed members of the board
15 may be removed by the Governor for cause after notice and an
16 opportunity to be heard."

LEGISLATIVE BILL 1013. Placed on General File as amended.

Standing Committee amendment to LB 1013:

AM2861

- 1 1. On page 2, lines 17 and 20, after "and" insert "if he
- 2 or she commenced his or her employment after January 1, 1984, his

3 or her"; and in line 22 after the period insert "Upon the direction
4 of the city, firefighters employed on January 1, 1984, may have the
5 option to allocate their employer account to various investment
6 options or combinations of investment options in any proportion,
7 including full allocation, in any investment option offered by the
8 plan.".

LEGISLATIVE BILL 1115. Indefinitely postponed.

(Signed) Elaine Stuhr, Chairperson

VISITORS

Visitors to the Chamber were Tom Moser from Hartington; 27 kindergarten through eighth-grade students and teacher from Abie and Bruno Public Schools; 41 twelfth-grade students and teacher from Aurora; nurses from the liaison group Nebraska Nurses organization; members from Lithuania as part of the Open World Program at the Library of Congress; and 50 seventh- and eighth-grade students and teachers from Sunrise and Horizon Middle Schools, Kearney.

RECESS

At 12:02 p.m., on a motion by Senator Hartnett, the Legislature recessed until 1:30 p.m.

AFTER RECESS

The Legislature reconvened at 1:30 p.m., Senator Cudaback presiding.

ROLL CALL

The roll was called and all members were present except Senator McDonald who was excused; and Senators Byars, Cunningham, Johnson, Landis, Mines, Price, Raikes, and Vrtiska who were excused until they arrive.

GENERAL FILE

LEGISLATIVE BILL 962. Senator Chambers offered the following amendment to the first Standing Committee amendment:

FA1527

Amend FA1502

On page 6, in line 2 after "appropriation" put a comma and strike "that" and insert "such"; in line 4 strike "for the department to conclude" and insert "to support the conclusion"; in line 7 strike "the" and insert "such" and strike "agreeing".

The Chambers amendment was adopted with 30 ayes, 0 nays, 10 present and not voting, and 9 excused and not voting.

Senator Chambers offered the following amendment to the first Standing Committee amendment:

FA1528

Amend FA1502

On page 8, in line 16 strike "personally" and insert "by personal service"; in line 19 strike "arrive at" and insert "reach"

Senator Chambers moved for a call of the house. The motion prevailed with 14 ayes, 0 nays, and 35 not voting.

Senator Chambers requested a roll call vote on his amendment.

Voting in the affirmative, 45:

Aguilar	Chambers	Hudkins	Mines	Schrock
Baker	Combs	Janssen	Mossey	Smith
Beutler	Cudaback	Jensen	Pedersen, Dw.	Stuhr
Bourne	Cunningham	Jones	Pederson, D.	Stuthman
Brashear	Engel	Kremer	Preister	Synowiecki
Bromm	Erdman	Kruse	Price	Thompson
Brown	Foley	Landis	Quandahl	Tyson
Burling	Friend	Louden	Redfield	Vrtiska
Byars	Hartnett	Maxwell	Schimek	Wehrbein

Voting in the negative, 0.

Excused and not voting, 4:

Connealy	Johnson	McDonald	Raikes
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The Chambers amendment was adopted with 45 ayes, 0 nays, and 4 excused and not voting.

The Chair declared the call raised.

Senator Chambers offered the following amendment to the first Standing Committee amendment:

FA1529

Amend FA1502

On page 8, in lines 25 and 26; and on page 9, in lines 1, 2 and 4 strike "being".

The Chambers amendment was adopted with 26 ayes, 0 nays, 19 present and not voting, and 4 excused and not voting.

Senator Chambers offered the following amendment to the first Standing Committee amendment:

FA1530

Amend FA1502

On page 9, in line 6 strike "is" and insert "are", and strike "by" and insert "to"; in line 8 strike "personally" and insert "by personal service"; in line 10 strike "shown" and insert "listed"; in line 11 put a comma after "involved"; in line 13 strike "is" and insert "are"

The Chambers amendment was adopted with 25 ayes, 0 nays, 19 present and not voting, and 5 excused and not voting.

Senator Chambers offered the following amendment to the first Standing Committee amendment:

FA1531

Amend FA1502

1. On page 9, in line 15 strike "the"; in line 16 strike "Nebraska"; in lines 18 and 19 strike "any Nebraska County which contains" and insert "each county containing"; in line 26 strike "a" and insert "each".
2. On page 10, in line 6 strike and show as stricken "one" and insert "person"; in line 8 strike and show as stricken "someone interested" and insert "an interested person".

The Chambers amendment was adopted with 27 ayes, 0 nays, 18 present and not voting, and 4 excused and not voting.

Senator Chambers offered the following amendment to the first Standing Committee amendment:

FA1532

Amend FA1502

1. On page 13, in line 12 strike "dictates" and insert "principles";
2. On page 14, in line 27 strike "cancelled" and insert "canceled";
3. On page 15, in line 7 strike "that" and insert "such"

The Chambers amendment was adopted with 26 ayes, 0 nays, 19 present and not voting, and 4 excused and not voting.

Senator Beutler asked unanimous consent to bracket LB 962 until Tuesday, March 9, 2004. No objections. So ordered.

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 1231A. Introduced by Hartnett, 45.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 1231, Ninety-eighth Legislature, Second Session, 2004.

GENERAL FILE

LEGISLATIVE RESOLUTION 209CA. Read. Considered.

SENATOR VRTISKA PRESIDING

The Standing Committee amendment, AM2346, found on page 501, was considered.

Senator Landis withdrew his pending amendment, AM2752, found on page 748.

Senator Landis renewed his pending amendment, AM2822, found on page 779, to the Standing Committee amendment.

Senator Chambers offered the following motion:
Bracket until April 15, 2004.

Pending.

STANDING COMMITTEE REPORTS
Nebraska Retirement Systems

LEGISLATIVE BILL 1030. Placed on General File.

LEGISLATIVE BILL 1097. Placed on General File as amended.
(Standing Committee amendment, AM2868, is printed separately and available in the Bill Room, Room 1104.)

(Signed) Elaine Stuhr, Chairperson

VISITORS

Visitors to the Chamber were Randy and Elizabeth Basnett from Ravenna; and 9 eighth-grade students and teacher from St. Patrick's School, Lincoln.

The Doctor of the Day was Dr. Bradley Hupp from Albion.

ADJOURNMENT

At 4:49 p.m., on a motion by Senator Hartnett, the Legislature adjourned until 9:00 a.m., Friday, March 5, 2004.

Patrick J. O'Donnell
Clerk of the Legislature

